

#### **IV. REMARKS**

1. Claims 21-23 are new.

2. The Examiner indicates that a certified copy of the PCT priority application is required to be submitted. The Examiner is reminded that this a submission under 35 USC 371 and is the National Stage of International Application No. PCT/EP2002/014646, International Filing Date, December 20, 2002, which designated the United States of America, and which international application was published under PCT Article 21(2) as WO Publication No. WO 2004/057888 A1.

3. The specification is amended to address the noted objection.

4. Claims 1-20 are not unpatentable over Birkler et al. ("Birkler")(US20020129103) in view of Daniell et al. ("Daniell")(US20040158609) under 35 USC §103(a) because Daniell is not prior art for purposes of 35 USC §103(a).

Applicant's earliest priority date is 20 December 2002, the filing date of International Application Number PCT/EP2002/014646. As this application is a 371 of PCT/EP2002/014646 and the requirements of 35 USC §371 were fulfilled within the required time period, Applicant is entitled to the benefit of this priority date.

Daniell has a filing date of 10 February 2003, which is after Applicant's earliest priority date. Thus, Daniell is not prior art against Applicant's application for purposes of 35 USC §103(a).

Furthermore, the combination of Birkler and Daniell does not disclose or suggest Applicant's claimed subject matter. Applicant's claim 1 recites means responsive to the commencement of an activity or the running of an application for adjusting an availability setting, and means for reporting the adjusted availability setting to or via a network. Birkler only discloses a system for updating presence information responsive to an update request.

In Birkler, presence information is stored on the client device and a server. In order to update the presence information between a client and a server, a presence information request is sent. The version number corresponding to the presence information stored at the client is compared to the version number of the presence information stored in a server. If the numbers do not match, the presence information at the server is more up-to-date than the presence information at the client. To update the presence information, the new presence information stored at the server is sent from the server to the client with the new version number. If a match is found, the presence information at both the client and the server is the same and no update is needed. This is not what is recited in Applicant's claim 1.

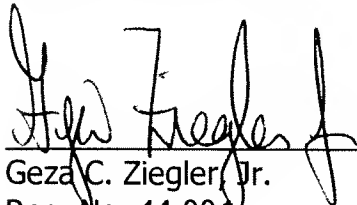
Claim 11 recites detecting the commencement of an activity or the running of an application; and in response to a detection, adjusting an availability setting; and reporting the adjusted availability setting to or via a network. This is not disclosed or suggested by Birkler and Daniell. As noted above, Birkler only discloses "updating" a presence setting in response to a specific present update request. This involves matching identification numbers associated with the different versions of the presence information. Applicant on the other hand, adjusts an availability setting response to a detection of a running of an application or commencement of an activity.

Thus, claims 1-23 are not unpatentable over the combination of Birkler and Daniell.

For the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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Date

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